

In re Appln. of Helen Biddiscombe
Serial No. 09/763,723
Reply To Office Action Of November 23, 2005

REMARKS

This Amendment is responsive to the Office Action mailed November 23, 2005 wherein the Examiner (a) rejects Claims 2-5, 9, 13, 15-17, 21-25 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Balaji et al. (USPN 6,726,969) in view of Yamanaka et al. (USPN 5,332,542), and (b) rejects Claims 8, 12, 20 and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over Balaji and Yamanaka et al. as applied to Claims 9, 13, and 21 and further in view of Takagaki (USPN 5,078,817). By this response, Applicant amends Claims 13 and 29 and adds new Claims 30-31.

The Examiner rejected Claims 2-5, 9, 13, 15-17, 21-25, and 29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,726,969 to Balaji et al. in view of U.S. Patent No. 5,332,542 to Yamanaka et al.

Applicant respectfully submits that in regards to Claims 21-25, the Examiner's statement that the claims require all of the same limitations as the claims discussed above (2-5 and 13) is misplaced as Claim 21 requires a film having a density of less than 0.8 g/cm^3 while Claim 13 requires a film having a density of 0.8 g/cm^3 or more. Applicant submits that U.S. Patent No. 6,726,969 to Balaji et al. (the '969 patent) does not disclose, teach, or suggest a density of 0.8 g/cm^3 or less. The '969 patent teaches densities above 0.85 g/cm^3 , with specific examples of density that clearly state that the polyolefin typically has a density of about 0.85 to about 0.95, or from about 0.87 to about 0.92, or about 0.88 to about 0.91 0.8 g/cm^3 (column 4, lines 22-25). Applicant respectfully submits that U.S. Patent No. 5,332,542 to Yamanaka et al. (the '542 patent) does not supplement the deficiencies of the '969 patent as the '542 patent also teaches away from a density of less than 0.8 g/cm^3 and also specifically claims a density of 0.88 to 0.94 g/cm^3 (see Claim 1). Therefore, as the '542 patent does not supplement the deficiencies of the '969 patent, Applicant respectfully submits that independent Claim 21 and all of the claims depending thereupon are in a condition for allowance.

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Applicant has amended Claims 13 and 29 and respectfully submits that amended Claims 13 and 29 are in a condition for allowance. Applicant has amended Claims 13 and 29 to include that a majority of the heat sealable polymer forming the outer layer is formed from a copolymer selected from the group consisting of ethylene and propylene or ethylene, propylene and butane. Applicant respectfully submits that the '969 patent teaches the olefin being present at most in an amount up to 50% and more specifically in an amount of about 5 to 30% or about 7 to 25%. Applicant respectfully submits that the '969 patent does not disclose, teach, or suggest this limitation and that the '542 patent does not supplement these deficiencies. Applicant respectfully submits that amended Claims 13 and 29 and the claims depending therefrom are in a condition for allowance.

Applicant further respectfully submits that the '969 patent does not disclose, teach, or suggest a voided film having a shrinkage rate of at least 4% in both the machine and transverse directions. While the '969 patent does state that the labels may be stretched and oriented in single or double directions, it does not disclose, teach, or suggest shrinkage rates for both the machine and transverse directions. The '969 patent does not even disclose, teach, or suggest whether any of the given shrinkage values are in the machine direction, the transverse direction, or in both the machine and transverse directions. As the machine and transverse directions may shrink at significantly different rates, without a specific teaching that the shrinkage rate applies to both the machine and transverse directions, it would be unlikely that the '969 patent would be referring to the shrinkage rate in both the machine and transverse direction. This is especially supported in that while the '969 patent states that it may be double direction oriented, in column 9, lines 15-17, the '969 patent states that it is preferable that the film is uniaxially oriented. The patent continues in column 9 to discuss the preferable uniaxial orientation which helps to provide the voids in the film. Furthermore, the teachings as well as in the example (column 13, lines 47-50) in the '969 patent are directed to a film that is stretched uniaxially in the machine direction. Therefore,

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Applicant respectfully submits that the '969 patent does not disclose, teach, or suggest a shrinkage rate of at least 4% in both the machine direction and the transverse direction. Furthermore, Applicant respectfully submits that the '542 patent does not supplement the deficiencies of the '969 patent and therefore independent Claims 13, 21, and 29 and the claims that depend therefrom are in a condition for allowance.

Applicant further submits that more support for the shrinkage values as being only in either the machine or transverse directions is that the specification of the '969 patent specifically emphasizes that the film shall have a low shrinkage. One skilled in the art would understand that a shrinkage value of above 4% in both the machine and transverse directions would not be a low shrinkage value for the biaxially oriented film. A conventional standard biaxially oriented film has a shrinkage value of approximately 1 to 2% and at the very most 3% at 130 °C. The shrinkage values listed for film in the '969 patent are given for 99 °C and would lead a skilled artisan to understand that the shrinkage values and teachings of low shrink values refer to a non-stretched, mono-stretched, or unilaterally oriented film and not to a biaxially oriented film. Furthermore, the '969 patent does not suggest any means to solve the problem of blister and orange peel which occurs with a biaxially oriented film by imparting a shrink to the film which usually has almost no shrinkage. The '969 patent suggests that blisters result from bad adhesion and nothing discloses, teaches, or suggests that bad adhesion between biaxially oriented polypropylene and a polyethylene container can be overcome by imparting a shrink of at least 4% in both directions to the biaxially oriented film as claimed in the present invention.

The Examiner rejected Claims 8, 12, 20, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,726,969 to Balaji et al. in view of U.S. Patent No. 5,332,542 to Yamanaka et al. and in further view of U.S. Patent No. 5,078,817 to Takagaki. The Examiner states that Takagaki teaches that the hydrogenated hydrocarbon resins are added to the layers having shrink in

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order to uniformly distribute the shrinking power of the film so that deformation of the label does not occur. Applicant respectfully submits that Takagaki does not overcome the deficiencies discussed above with reference to the '969 patent and the '542 patent. Applicant respectfully submits therefore that Claims 8, 12, 20, and 26-27 are in a condition for allowance.

In view of the above remarks and the revised claims, Applicant submits that each of the pending claims define an invention that is patentable over the prior art. If the Examiner believes that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at (248) 433-7231.

Prompt and favorable consideration of this amendment is respectfully requested.

Respectfully submitted,

Date:

4-24-06

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